

THURSDAY, MAY 29, 1997

FORTY-NINTH LEGISLATIVE DAY

The House met at 9:30 a.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Reverend Charles McElhannon, Valley View Baptist Church, Nashville, Tennessee.

Representative Boner led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present99

Representatives present were: Armstrong, Arriola, Beavers, Bird, Bittle, Bone, Boner, Bowers, Boyer, Brooks, Brown, Buck, Burchett, Caldwell, Chumney, Clabough, Cole (Carter), Cole (Dyer), Cooper, Cross, Curtiss, Davidson, Davis, DeBerry J., DeBerry L., Dunn, Eckles, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Haley, Halteman-Harwell, Hargett, Hargrove, Hassell, Head, Hicks, Hood, Huskey, Jackson, Jones S., Jones U., Kent, Kernell, Kerr, Kisber, Langster, Lewis, Maddox, McAfee, McDaniel, McDonald, McKee, McMillan, Miller, Mumpower, Newton, Odom, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Ritchie, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stamps, Stulce, Tidwell, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 99.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 1413: Rep(s). Langster as prime sponsor(s).

House Bill No. 1660: Rep(s). Bittle as prime sponsor(s).

House Bill No. 2030: Rep(s). Hood as prime sponsor(s).

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 130; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 642, 667, 1950 and 2000; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 612, 1012 and 1124; both substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to request the return of House Bill(s) No(s). 1402, for further consideration.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1573; substituted for Senate Bill(s) on the same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1788; substituted for Senate Bill(s) on the same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 32; substituted for Senate Bill(s) on the same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 900, 1638, 1680, 1682, 1747 and 1841; all passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

***Senate Bill No. 900** -- Education - Provides that local educational funding in counties with populations of 250,000 or more with more than one school system may be apportioned on either the basis of BEP funding or WFETADA. Amends TCA Section 49-3-315. by *Dixon.

Senate Bill No. 1638 -- Alcoholic Beverages - Redefines "restaurant" to include gourmet coffee houses to authorize sale and consumption of alcoholic beverages on such premises; to be located in city of more than 100,000, seating capacity of at least 30; with 50% of sales from coffees, teas and pastries. Amends TCA Section 57-4-102(19). by *Ford J.

Senate Bill No. 1680 -- Health - Shields physician from liability when disclosing child's immunization status information to department of health, for specified purposes. Amends TCA Section 63-2-101. by *Person, *Williams, *Elsea, *McNally, *Atchley, *Jordan, *Koella, *Haun, *Carter, *Ramsey, *Leatherwood, *Gilbert, *Miller J.

Senate Bill No. 1682 -- Mental Illness - Abolishes crisis service program for mentally ill; extends custody and hospitalization procedures for mentally ill to all counties. Amends TCA Sections 33-1-205 and 33-6-103. Repeals TCA title 33, chapter 2, part 6. by *Leatherwood, *Elsea, *McNally, *Atchley, *Person, *Jordan, *Haun, *Carter, *Ramsey, *Leatherwood, *Gilbert, *Miller J.

***Senate Bill No. 1747** -- Hospitals and Health Care Facilities - Makes all existing and future certificates of need to be state-wide certificates for home health agencies. Amends TCA Title 68. by *Fowler.

***Senate Bill No. 1841** -- Annexation - Prohibits finger or corridor style annexation. Amends TCA Title 6, Chapter 51, Part 1. by *Atchley, *McNally.

MESSAGE FROM THE SENATE
May 29, 1997

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 318, 319, 320, 321, 333, 336, 337, 338, 339, 345, 346, 347 and 348; all adopted for concurrence.
CLYDE W. McCULLOUGH, JR., Chief Clerk.

Senate Joint Resolution No. 318 -- Memorials, Sports - Cedric Jones. by *Herron.

Senate Joint Resolution No. 319 -- Memorials, Sports - B.J. Vujicic. by *Herron.

Senate Joint Resolution No. 320 -- Memorials, Sports - Tonya Williams. by *Herron.

Senate Joint Resolution No. 321 -- Memorials, Interns - Libbi Lankford. by *Wilder.

Senate Joint Resolution No. 333 -- Memorials, Interns - Holly Ray Salmons, Senate Page. by *Womack.

Senate Joint Resolution No. 336 -- Naming and Designating - Tipton County Bar-B-Que Festival, official barbeque festival of Tennessee. by *Leatherwood.

Senate Joint Resolution No. 337 -- Memorials, Retirement - Donald R. Carter, Director of Development, East Tennessee State University. by *Crowe.

Senate Joint Resolution No. 338 -- Memorials, Death - Ruby Leola Barnes Gray. by *Crowe.

Senate Joint Resolution No. 339 -- Memorials, Interns - Donald Ray Denning, Jr. by *Davis L.

Senate Joint Resolution No. 345 -- Memorials, Sports - Ashley Cleek. by *Herron.

Senate Joint Resolution No. 346 -- Memorials, Sports - Demia Flowers. by *Herron.

Senate Joint Resolution No. 347 -- Memorials, Interns - Echol Lee Nix, Jr. by *Herron.

Senate Joint Resolution No. 348 -- Memorials, Interns - Scott Russell. by *Haynes.

MESSAGE FROM THE SENATE
May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1793.

The Senate refused to recede from its action in adopting Amendment(s) No(s). 1, 2, 3, 5 and 10.

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The Speaker appointed a Conference Committee composed of Senators Henry, McNally, Rochelle, Atchley, Crutchfield, Ford, Haynes, Leatherwood, Miller, Fowler and Womack to confer with a like Committee from the House to resolve the differences of the two bodies on House Bill No. 1793.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1794.

The Senate refused to recede from its action in adopting Amendment(s) No(s). 1.

The Speaker appointed a Conference Committee composed of Senators Henry, McNally, Rochelle, Atchley, Crutchfield, Ford, Haynes, Leatherwood, Miller, Fowler and Womack to confer with a like Committee from the House to resolve the differences of the two bodies on House Bill No. 1794.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May 29, 1997

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1742; substituted for Senate Bill(s) on the same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

May, 29, 1997

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 354; adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

Senate Joint Resolution No. 354 -- Memorials, Personal Occasion - John C. Lyell, II, 50th birthday. by *Person.

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for May 30, 1997:

House Joint Resolution No. 408 -- Memorials, Interns - Mary Williams. by *Brooks, *Garrett, *Kernell.

House Joint Resolution No. 409 -- Memorials, Academic Achievement - Doug Sparks, Spelling Bee champion. by *Stulce.

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House Joint Resolution No. 410 -- Memorials, Sports - Pat Asquith, softball player. by *Dunn, *Burchett.

**SENATE JOINT RESOLUTIONS
(Congratulatory and Memorializing)**

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for May 30, 1997:

Senate Joint Resolution No. 336 -- Naming and Designating - Tipton County Bar-B-Que Festival, official barbeque festival of Tennessee. by *Leatherwood.

Senate Joint Resolution No. 354 -- Memorials, Personal Occasion - John C. Lyell, II, 50th birthday. by *Person.

RESOLUTIONS LYING OVER

On motion, the resolutions(s) listed was/were referred to the appropriate Committee:

Senate Joint Resolution No. 57 -- Naming and Designating - "Tennessee Treasures," by Michael Sloan, official painting of Tennessee. by *Haynes, *Henry.

Calendar & Rules Committee

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 2036 -- Jellico - Repeals city charter; enacts new city charter. Repeals Chapter 336 of the Acts of 1903. by *Cross. (SB2043 by *McNally)

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

***Senate Bill No. 1009** -- Boats, Boating - Enacts "Comprehensive Boating Safety Act of 1997." Amends TCA Title 69, Chapter 10. by *Gilbert, *Atchley. (HB1501)

***Senate Bill No. 881** -- State Prisoners - Requires nonindigent inmates serving sentences for second or subsequent felony offenses to reimburse state for various services provided to such inmates. Amends TCA Title 41, Chapter 21. by *Harper. (HB1473)

***Senate Bill No. 900** -- Education - Provides that local educational funding in counties with populations of 250,000 or more with more than one school system may be apportioned on either the basis of BEP funding or WFETADA. Amends TCA Section 49-3-315. by *Dixon. (HB1381)

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Senate Bill No. 1680 -- Health - Shields physician from liability when disclosing child's immunization status information to department of health, for specified purposes. Amends TCA Section 63-2-101. by *Person, *Williams, *Elsea, *McNally, *Atchley, *Jordan, *Koella, *Haun, *Carter, *Ramsey, *Leatherwood, *Gilbert, *Miller J. (*HB1255)

***Senate Bill No. 1044** -- Motor Vehicles - Requires certificate of convenience and necessity for carriers of household goods and passenger motor vehicles after June 30, 1997, but continues exemption for limousines. Amends TCA Title 55; Title 56 and Title 65. by *Womack. (HB1297)

***Senate Bill No. 1352** -- Business Organizations - Limits information that professional corporation may be required to include in charter by regulation to that information required by professional corporation statute. Amends TCA Title 48, Chapter 101 and Title 48, Chapter 12. by *Gilbert. (HB1355)

Senate Bill No. 1638 -- Alcoholic Beverages - Redefines "restaurant" to include gourmet coffee houses to authorize sale and consumption of alcoholic beverages on such premises; to be located in city of more than 100,000, seating capacity of at least 30; with 50% of sales from coffees, teas and pastries. Amends TCA Section 57-4-102(19). by *Ford J. (*HB1281)

Senate Bill No. 1682 -- Mental Illness - Abolishes crisis service program for mentally ill; extends custody and hospitalization procedures for mentally ill to all counties. Amends TCA Sections 33-1-205 and 33-6-103. Repeals TCA title 33, chapter 2, part 6. by *Leatherwood, *Elsea, *McNally, *Atchley, *Person, *Jordan, *Haun, *Carter, *Ramsey, *Leatherwood, *Gilbert, *Miller J. (*HB1267)

***Senate Bill No. 1747** -- Hospitals and Health Care Facilities - Makes all existing and future certificates of need to be state-wide certificates for home health agencies. Amends TCA Title 68. by *Fowler. (HB1751)

***Senate Bill No. 1841** -- Annexation - Prohibits finger or corridor style annexation. Amends TCA Title 6, Chapter 51, Part 1. by *Atchley, *McNally. (HB1873)

Senate Bill No. 2035 -- Byrdstown - Subject to local approval, revises charter. Amends Chapter 815 of the Private Acts of 1917, and all acts amendatory thereto. by *Burks. (HB2027)

REPORTS FROM STANDING COMMITTEES

The committees that met on **May 29, 1997**, reported the following:

COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Supplemental Regular Calendar for May 29, 1997**: Senate Joint Resolution(s) No(s). 243 226; also, House Bill(s) No(s). 1408 and 1123.

THURSDAY, MAY 29, 1997 -- FORTY-NINTH LEGISLATIVE DAY

The Committee set the following bill(s) and/or resolution(s) on the **Message Calendar** for **May 29, 1997**: House Bill(s) No(s).1573.

FINANCE, WAYS AND MEANS

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 1573 and 1123, also House Bill(s) No(s). 1408 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

CONSENT CALENDAR

***House Bill No. 2025** -- County Boundaries - Revises boundary between Coffee and Franklin counties. by *Lewis, *Fraleay. (SB2040 by *Cooper)

House Bill No. 2026 -- Cleveland - Subject to local approval, authorizes residential property acquired by city through tax sales or condemnation be given or sold at nominal consideration to organization like Habitat for Humanity to be refurbished and given or sold to private property owner to insure property remains attractive and returned to city's tax roll. Amends Chapter 78 of the Private Acts of 1993. by *Bird, *Newton. (SB2036 by *Miller J)

House Bill No. 2027 -- Byrdstown - Subject to local approval, revises charter. Amends Chapter 815 of the Private Acts of 1917, and all acts amendatory thereto. by *Winningham. (SB2035 by *Burks)

On motion, House Bill No. 2027 was made to conform with **Senate Bill No. 2035**; the Senate Bill was substituted for the House Bill.

House Bill No. 2028 -- Tullahoma - Subject to local approval, increases power of board of mayor and aldermen. Amends Chapter 553 of the Acts of 1903; as amended. by *Lewis. (SB2031 by *Burks)

House Bill No. 2029 -- School Districts, Special - Authorizes Franklin Special School District to issue refunding bonds. Amends Chapter 181 of the Private Acts of 1992. by *Williams (Williamson). (SB2029 by *Jordan)

House Bill No. 2030 -- Murfreesboro - Establishes procedure for disciplinary review board to appoint licensed attorneys as hearing officers to hear certain contested personnel cases Amends Chapter 429 of the Private Acts of 1931; as amended. by *Eckles. (SB2005 by *Womack)

House Bill No. 2032 -- Nolensville - Subject to local approval, enacts "Town of Nolensville Adequate Facilities Tax.". by *Sargent. (SB2041 by *Jordan)

House Bill No. 2034 -- Union County - Subject to local approval, regulates location and development of planned mobile home parks. by *Goins, *Boyer, *Kerr. (SB2039 by *Williams)

House Resolution No. 119 -- Memorials, Personal Occasion - George & Gwen McFarland, 50th anniversary. by *Boner, *Robinson, *Pruitt, *Jones, S., *Arriola, *West, *Langster, *Odom, *Halteman Harwell.

House Joint Resolution No. 406 -- Memorials, Interns - Ameer Ali. by *Armstrong, *Pruitt, *Eckles.

Senate Joint Resolution No. 315 -- Memorials, Interns - Charles David Glover. by *Womack.

Senate Joint Resolution No. 316 -- Memorials, Interns - Tracy Lynn Dry. by *Jordan.

Senate Joint Resolution No. 317 -- Memorials, Professional Achievement - Eastman Wastewater Treatment Facility, Kentucky-Tennessee Water Environment Association Operational Excellence award. by *Ramsey.

Senate Joint Resolution No. 327 -- Memorials, Death - Thomas E. Fox, former State Senator and Deputy Attorney General. by *Henry, *Jordan, *Atchley, *Burks, *Carter, *Cohen, *Cooper, *Crowe, *Crutchfield, *Davis L, *Dixon, *Elsea, *Ford J, *Fowler, *Gilbert, *Graves, *Harper, *Haun, *Haynes, *Henry, *Herron, *Jordan, *Koella, *Kurita, *Kyle, *Leatherwood.

Pursuant to **Rule No. 50**, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes99
Noes0

Representatives voting aye were: Armstrong, Arriola, Beavers, Bird, Bittle, Bone, Boner, Bowers, Boyer, Brooks, Brown, Buck, Burchett, Caldwell, Chumney, Clabough, Cole (Carter), Cole (Dyer), Cooper, Cross, Curtiss, Davidson, Davis, DeBerry J., DeBerry L., Dunn, Eckles, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Haley, Halteman-Harwell, Hargett, Hargrove, Hassell, Head, Hicks, Hood, Huskey, Jackson, Jones S., Jones U., Kent, Kernell, Kerr, Kisber, Langster, Lewis, Maddox, McAfee, McDaniel, McDonald, McKee, McMillan, Miller, Mumpower, Newton, Odom, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Ritchie, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stamps, Stulce, Tidwell, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 99.

A motion to reconsider was tabled.

SPECIAL ORDER

Rep. Hargrove moved that the Message Calendar be heard before the Regular Calendar, which motion prevailed.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE AMENDMENTS

***House Bill No. 1573** -- Workers' Compensation - Requires that multipliers for workers' compensation insurance apply to most recently approved, currently effective advisory prospective loss cost. Amends TCA Title 4; Title 38; Title 39; Title 50 and Title 56. by *Kisber. (SB1820 by *Gilbert, *Jordan)

Senate Amendment No. 3

AMEND House Bill No. 1573 as amended in the amendatory language of Section 9 by deleting subsection (b) in its entirety and by substituting instead the following:

(b) The provisions of subsection (a) shall not apply to filings made on or after July 1, 1999. Filings made on or after July 1, 1999 shall be considered by the commissioner pursuant to Tennessee Code Annotated, Title 56, Chapter 5, Part 3.

Senate Amendment No. 4

AMEND House Bill No. 1573 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____. Tennessee Code Annotated, Section 50-6-401(d), is amended by deleting the reference "1994" after June 30," and after the word "aforementioned" and by substituting instead the reference "1996".

Rep. Kisber moved that the House concur in Senate Amendment(s) No(s). 3 and 4 to **House Bill No. 1573**, which motion prevailed by the following vote:

Ayes98
Noes0

Representatives voting aye were: Armstrong, Arriola, Beavers, Bird, Bittle, Bone, Bowers, Boyer, Brooks, Brown, Buck, Burchett, Caldwell, Chumney, Clabough, Cole (Carter), Cole (Dyer), Cooper, Cross, Curtiss, Davidson, Davis, DeBerry J., DeBerry L., Dunn, Eckles, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Haley, Halteman-Harwell, Hargett, Hargrove, Hassell, Head, Hicks, Hood, Huskey, Jackson, Jones S., Jones U., Kent, Kernell, Kerr, Kisber, Langster, Lewis, Maddox, McAfee, McDaniel, McDonald, McKee, McMillan, Miller, Mumpower, Newton, Odom, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Ritchie, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stamps, Stulce, Tidwell, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

***House Bill No. 32** -- Hospitals and Health Care Facilities - Limits amount hospital can charge to copy patient's medical records to no more than \$10.00 for reports 20 pages or less plus 25 cents for each additional page copied.. Amends TCA Title 56, Title 63 and Title 68. by *Buck, *Pinion, *DeBerry J, *Jones U (Shelby), *Eckles. (S 1504 by *Crutchfield, *Kyle)

Rep. Pinion requested that House Bill No. 32 be moved to the heel of the Message Calendar.

***House Joint Resolution No. 207** -- Memorials, Government Officials - Requests governor and department of environment and conservation to take certain actions regarding incinerator at Oak Ridge. by *Cross, *Ferguson.

Senate Amendment No. 3

AMEND House Joint Resolution No. 207 by deleting from the second preamble clause the word "significant".

AND FURTHER AMEND by deleting from the third preamble clause the language "substantial and credible".

AND FURTHER AMEND by deleting from the third preamble clause the language "debilitating".

AND FURTHER AMEND by deleting from the sixth preamble clause the language "best and most comprehensive" and substituting instead the language "most effective".

AND FURTHER AMEND by deleting the third and fifth resolving clauses.

Rep. Cross moved that the House non-concur in Senate Amendment(s) No(s). 3 to **House Joint Resolution No. 207**, which motion prevailed.

House Bill No. 759 -- Sexual Offenses - Makes person charged with or convicted of sexual offense requiring registration under Sexual Offender Registration and Monitoring Act ineligible for pre-trial or judicial diversion. Amends TCA Title 40, Chapter 15 and Title 40, Chapter 35, Part 3. by *Jackson. (*SB1364 by *Rochelle)

Senate Amendment No. 1

AMEND House Bill No. 759 by deleting the amendatory language of Section 1 and by substituting instead the following:

(B) Notwithstanding the provisions of this subsection to the contrary, no defendant, who is charged with committing a sexual offense, shall be eligible for suspension of prosecution as authorized by this chapter. As used in the preceding sentence, "sexual offense" means conduct which constitutes:

- (i) Aggravated rape, as described in § 39-13-502;
- (ii) Rape, as described in § 39-13-503;
- (iii) Aggravated sexual battery, as described in § 39-13-504;
- (iv) Sexual battery, as described in § 39-13-505;
- (v) Statutory rape, as described in § 39-13-506;
- (vi) Aggravated prostitution, as described in § 39-13-516;
- (vii) Sexual exploitation of a minor, as described in § 39-17-1003;
- (viii) Aggravated sexual exploitation of a minor, as described in § 39-17-1004;
- (ix) Especially aggravated sexual exploitation of a minor, as described in § 39-17-1005;
- (x) Incest, as described in § 39-15-302;
- (xi) Rape of a child, as described in § 39-13-522; or
- (xii) Attempt, as described in § 39-12-101, solicitation, as described in § 39-12-102, or conspiracy, as described in § 39-12-103, to commit any of the offenses enumerated herein.

AND FURTHER AMEND by deleting the amendatory language of Section 2 and by substituting instead the following:

(B) Notwithstanding the provisions of this subsection to the contrary, no defendant, who is found guilty of or pleads guilty to a sexual offense, shall be eligible for deferral of further proceedings and probation as authorized by this section. As used in the preceding sentence, "sexual offense" means conduct which constitutes:

- (i) Aggravated rape, as described in § 39-13-502;
- (ii) Rape, as described in § 39-13-503;
- (iii) Aggravated sexual battery, as described in § 39-13-504;
- (iv) Sexual battery, as described in § 39-13-505;
- (v) Statutory rape, as described in § 39-13-506;
- (vi) Aggravated prostitution, as described in § 39-13-516;

(vii) Sexual exploitation of a minor, as described in § 39-17-1003;

(viii) Aggravated sexual exploitation of a minor, as described in § 39-17-1004;

(ix) Especially aggravated sexual exploitation of a minor, as described in § 39-17-1005;

(x) Incest, as described in § 39-15-302;

(xi) Rape of a child, as described in § 39-13-522; or

(xii) Attempt, as described in § 39-12-101, solicitation, as described in § 39-12-102, or conspiracy, as described in § 39-12-103, to commit any of the offenses enumerated herein.

Senate Amendment No. 3

AMEND House Bill No. 759 by deleting the amendatory language of Section 1 as amended by Senate Judiciary Committee Amendment No. 1 and by substituting instead the following:

(B) Notwithstanding the provisions of this subsection to the contrary, no defendant, who is charged with committing a sexual offense, shall be eligible for suspension of prosecution as authorized by this chapter. As used in the preceding sentence, "sexual offense" means conduct which constitutes:

(i) Aggravated rape, as described in § 39-13-502;

(ii) Rape, as described in § 39-13-503;

(iii) Aggravated sexual battery, as described in § 39-13-504;

(iv) Aggravated prostitution, as described in § 39-13-516;

(v) Aggravated sexual exploitation of a minor, as described in § 39-17-1004;

(vi) Especially aggravated sexual exploitation of a minor, as described in § 39-17-1005;

(vii) Rape of a child, as described in § 39-13-522; or

(viii) Attempt, as described in § 39-12-101, solicitation, as described in § 39-12-102, or conspiracy, as described in § 39-12-103, to commit any of the offenses enumerated herein.

AND FURTHER AMEND by deleting the amendatory language of Section 2 as amended by Senate Judiciary Committee Amendment No. 1 and by substituting instead the following:

(B) Notwithstanding the provisions of this subsection to the contrary, no defendant, who is found guilty of or pleads guilty to a sexual offense, shall be eligible for deferral of further proceedings and probation as authorized by this section. As used in the preceding sentence, "sexual offense" means conduct which constitutes:

- (i) Aggravated rape, as described in § 39-13-502;
- (ii) Rape, as described in § 39-13-503;
- (iii) Aggravated sexual battery, as described in § 39-13-504;
- (iv) Aggravated prostitution, as described in § 39-13-516;
- (v) Aggravated sexual exploitation of a minor, as described in § 39-17-1004;
- (vi) Especially aggravated sexual exploitation of a minor, as described in § 39-17-1005;
- (vii) Rape of a child, as described in § 39-13-522; or
- (viii) Attempt, as described in § 39-12-101, solicitation, as described in § 39-12-102, or conspiracy, as described in § 39-12-103, to commit any of the offenses enumerated herein.

Rep. Jackson moved that the House concur in Senate Amendment(s) No(s). 1 and 3 to **House Bill No. 759**, which motion prevailed by the following vote:

Ayes99
Noes0

Representatives voting aye were: Armstrong, Arriola, Beavers, Bird, Bittle, Bone, Boner, Bowers, Boyer, Brooks, Brown, Buck, Burchett, Caldwell, Chumney, Clabough, Cole (Carter), Cole (Dyer), Cooper, Cross, Curtiss, Davidson, Davis, DeBerry J., DeBerry L., Dunn, Eckles, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Haley, Halteman-Harwell, Hargett, Hargrove, Hassell, Head, Hicks, Hood, Huskey, Jackson, Jones S., Jones U., Kent, Kernell, Kerr, Kisber, Langster, Lewis, Maddox, McAfee, McDaniel, McDonald, McKee, McMillan, Miller, Mumpower, Newton, Odom, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Ritchie, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stamps, Stulce, Tidwell, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 99.

A motion to reconsider was tabled.

THURSDAY, MAY 29, 1997 -- FORTY-NINTH LEGISLATIVE DAY

House Bill No. 1073 -- Children - Enacts "Parentage Act of 1997." Amends TCA Title 36, Chapter 2, Part 1 and Title 36, Chapter 2, Part 2. by *McMillan. (*SB747 by *Cohen)

Senate Amendment No. 1

AMEND House Bill No. 1073 by deleting from § 36-2-101 of the amendatory language of SECTION 1 the figures and symbols "68-2-302" and by substituting instead the figures and symbols "68-3-302".

AND FURTHER AMEND by deleting § 36-2-104(a)(5) of SECTION 1 in its entirety and by substituting instead the following:

(5) genetic tests have been administered as provided in Tennessee Code Annotated, § 24-7-112, an exclusion has not occurred, and the test results show a statistical probability of parentage of ninety-five percent (95%) or greater.

AND FURTHER AMEND by deleting the numbers and symbols "36-2-115" in § 36-2-115(a)(3)(A) of SECTION 1 and by substituting instead the numbers and symbols "36-2-118".

AND FURTHER AMEND SECTION 1 by adding the following new sentence immediately after the first sentence of § 36-2-104(b):

Where the presumption arises as a result of the marriage of the mother and father and the child is still living, any action to rebut such presumption shall be brought within two (2) years of the birth of the child.

AND FURTHER AMEND by deleting § 36-2-104(c) of the amendatory language of SECTION 1 and by relettering subsequent subsections accordingly.

AND FURTHER AMEND by deleting from § 36-2-105 of the amendatory language of SECTION 1 the figures and symbols "68-2-302" and by substituting instead the figures and symbols "68-3-302".

AND FURTHER AMEND SECTION 1 by deleting the word "The" from the second sentence of § 36-2-105(b) and by substituting instead the language and punctuation "Except as hereinafter provided,".

AND FURTHER AMEND SECTION 1 by deleting the language of § 36-2-105(b)(4) in its entirety and by substituting instead the following:

(4) If the alleged father threatens or attempts to harm the complainant in any manner, the court may enter an order of protection pursuant to chapter 3, part 6 of this title. Nothing in this subsection shall be construed to alter or increase the jurisdiction of the juvenile courts to issue orders of protection except when the parties are before the court in connection with a complaint filed pursuant to Section 36-2-101 et seq.

AND FURTHER AMEND § 36-2-105(b) of SECTION 1 by adding the following new subdivision (5):

(5) The complaint shall be verified by affidavit and shall charge the person named with being the father of the child and shall demand that the defendant appear before the court to respond to the charge. The action may be commenced by service of a summons as in civil cases and tried as a civil action. In the alternative, notice of the filing of the complaint shall be delivered to the defendant or his representative or shall be sent to the defendant at his last known address. If the defendant fails to make an appearance or file and answer to the complaint, the court may proceed as in civil cases or may issue a warrant for the apprehension of the defendant, directed to any officer in this state authorized to execute warrants, commanding such officer without delay to apprehend the alleged father and bring the alleged father before the court for the purpose of having an adjudication as to the paternity of the child, and such warrant may be issued to any county of this state. Nothing in this section shall be construed to prevent the court from compelling the attendance of the mother pursuant to law.

AND FURTHER AMEND by deleting § 36-2-106(b) of SECTION 1 in its entirety and by substituting the following:

(b) An action to establish parentage may be brought on behalf of a child in whose behalf a paternity action could have been brought under this chapter on August 16, 1984, but for whom no such action was brought, or for whom a paternity action was brought but was dismissed because the previous more restrictive statute of limitations was then in effect. Nothing herein shall be construed to permit the filing of any paternity action after the statute of limitations established by subsection (a).

AND FURTHER AMEND § 36-2-107(a) of SECTION 1 by redesignating the current language as subdivision (1) and by adding the following:

(2) The court shall have statewide jurisdiction over the parties involved in the case.

AND FURTHER AMEND by deleting the introductory language immediately following the language "36-2-109. Tests to Determine Parentage." of SECTION 1 and by deleting § 36-2-109(a) and (b) of SECTION 1 in their entireties and by substituting instead the following:

(a)(1) In any contested paternity case, unless the individual is found to have good cause under Section 454(29) of the Social Security Act (42 U.S.C. 654(29)), the court, or the department of human services in Title IV-D child support cases, shall order the parties and the child to submit to genetic tests to determine the child's parentage upon the request of any party if the request is supported by an affidavit of the party making the request:

(A) Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(B) Denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties; or

(C) Denying paternity.

(2) In addition, upon the court's own motion, at such times as it deems equitable, or by administrative order by the department of human services in Title IV-D child support cases, tests and comparisons pursuant to this section and § 24-7-112 shall be ordered.

(b)(1) Absent the request of a party pursuant to subsection (a)(1), during any proceeding pursuant to this part in which the question of parentage arises, upon the motion of either party or on the court's own motion, the court shall at such time as it deems equitable, or the department of human services in Title IV-D child support cases, may order all necessary parties to submit to any tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage.

(2) In any proceeding pursuant to this part, the tests ordered shall be conducted by an accredited laboratory. In the case of genetic tests, and at such time as the Secretary of the United States Department of Health and Human Services of designates accreditation entities which acknowledge the reliability of types of genetic tests used in the establishment of paternity, such genetic tests shall be of the type which are generally acknowledged as reliable by accreditation entities designated by the Secretary and the genetic tests shall be performed by a laboratory approved by such a designated accreditation entity.

(3) The results of such tests and comparisons which are ordered pursuant to this section, including the statistical likelihood of the alleged parent's parentage, if available, may be admitted into evidence as provided in § 24-7-112(b).

AND FURTHER AMEND § 36-2-111(d) of SECTION 1 by deleting subsection (d) in its entirety and by substituting instead the following:

(d)(1) When the court enters an order in which the paternity of a child is determined or support is ordered, enforced or modified for a child, each individual who is a party to any action pursuant to this part shall be immediately required to file with the court and, if the case is a Title IV-D child support case, shall immediately file with the local Title IV-D child support office and shall update, as appropriate, the party's:

(A) Full name and any change in name;

(B) Social security number and date and place of birth;

(C) Residential and mailing addresses;

(D) Home telephone numbers;

(E) Driver's license number;

(F) The name, address, and telephone number of the person's employer; and,

(G) The availability and cost of health insurance for the child.

The requirements of this subdivision may be included in the court's order.

(2) Each individual who is a party must update changes in circumstances of the individual for the information required by subdivision (d)(1) within ten (10) days of the date of such change. At the time of the entry of the first order pertaining to child support after the effective date of this act, clear written notice shall be given to each party of the requirements of this subsection, procedures for complying with the subsection and a description of the effect or failure to comply. Such requirement may be noted in the order of the court.

(3) In any subsequent child support enforcement action, the delivery of written notice as required by Tennessee Rule of Civil Procedure 5 to the most recent residential or employer address shown in the court's records or the Title IV-D agency's records as required in (d)(1) shall be deemed to satisfy due process requirements for notice and service of process with respect to that party if there is a sufficient showing and the court is satisfied that a diligent effort has been made to ascertain the location and whereabouts of the party.

(4) Upon motion of either party, upon a showing of domestic violence or the threat of such violence, the court may enter an order to withhold from public access the address, telephone number, and location of the alleged victim(s) or threatened victims of such circumstances. The clerk of the court shall withhold such information based upon the court's specific order but may not be held liable for release of such information.

AND FURTHER AMEND by designating the language of § 36-2-112 of the amendatory language of SECTION 1 as subsection "(a)" and by adding the following new language, to be designated as subsection "(b)":

(b) The department may apply for and utilize any federal grants for the purpose of implementing a pilot project for access and visitation programs. The department may contract with other persons or entities to establish the pilot projects which will be administered by the department; provided, however, in establishing any such pilot project through contract, the department shall give preference to existing family preservation services programs, family resource centers, headstart programs and other established programs for children.